

REMARKS

In an Official Action dated November 22, 2005, claims 1-11 of the present application were rejected as being anticipated or rendered obvious by U.S. Patent No. 6,042,151 (Ali). In response, applicant amended the claims by amending claims 1-11 to change “proximate” to “spaced apart from” to emphasize the fact that the identifying segmented display differentiating characteristics of products is employed remotely from the product so identified. Although applicant has always been of the view that this characteristic of the present invention was inherently recited in the claims and in the specification that supported them, reciting the “spaced apart from” language certainly differentiated Ali which simply taught a sandpaper rack with pieces of sandpaper were arranged by their grit or abrasiveness.

U.S. Patent No. 4,249,318 has now been cited for the first time, the Examiner taking the position that its citation was necessary in view of the change in language from “proximate” to “spaced apart from.” It is the position of applicant that Anderson does nothing further to enhance the teachings of Ali, that its combination with Ali represents a classic case of hindsight reconstruction of applicant’s invention and, in fact, Anderson teaches away from applicant’s invention, as does Ali.

The Examiner has characterized Anderson as teaching a system for displaying multiple packages comprising a segmented pie chart 12 (Fig. 4) that identifies characteristics of a single entity (paint color) and color codes each segment of the segmented display to differentiate each character’s color from other characteristics of the display and positions multiple packages spaced apart from the segmented display (Fig. 7.). The Examiner candidly admits that Anderson does not teach each package further exhibiting at least one of the codes but concludes, without any prior art, that this is well known. Ali is again relied upon for teaching a display for multiple packages where each package exhibits at least one code, 24 (Fig.). The Examiner thus concludes that it would have been obvious to a person having ordinary skill in the art to utilize such a code on each package of Anderson so that the packages may be easily arranged on the shelves. Finally, the Examiner has taken “Official Notice” to paint tubes that include a place on the label or tube showing what color is in the tube. The Examiner concludes that it would

have been obvious to include such a place on the tubes of Anderson so that the tubes if the tubes are removed from the display they can be correctly replaced.

At the outset, applicant notes that Anderson teaches nothing more than a color chart teaching one how primary colors and related colors can be combined in order to achieve an appropriate color for use by an artist. For example, in column 3, lines 38-49, Anderson notes the objects of the claimed invention of the '318 patent:

It is accordingly an object of the present invention to provide a system for producing a spectral range of tonally related source color groupings or palettes suitable for rendering color compositions influenced by a selected total factor.

It is a further object of the present invention to provide in the context of paintings and other similar works a pre-mixed basic set of coloring materials which may be grouped to produce palettes from which may be derived other colors so that all colors so produced will show the influence of the total factor without the need for toning by the artist.

It is respectfully asserted that providing a color chart so that an artist knows what tube of color to use and to mix with other tubes of color have little or no relevance when it comes to applicant's claimed invention for a system of displaying multiple packages for purchase by consumers which are sold in conjunction with a spaced apart segmented display that identifies characteristics of a single entity and codes each segment of the segmented display to differentiate each characteristic from other characteristics of the segmented display wherein each of the multiple packages further exhibit at least one of the codes to enable a consumer to associate a package with a characteristic of a single entity associated with the codes. To provide an artist with a color chart so that the artist can simply know what colors to match with other colors simply is not related to applicant's invention.

In addition to the above discussion, it does not appear to be realistically conceivable that one familiar with Anderson would combine his teachings with Ali for any purpose whatsoever. Without applicant's disclosure, could one reasonably conclude that a person skilled in the art would combine a color chart for paint with a display for sandpaper and somehow combine the teachings of each to render obvious applicant's invention.

Furthermore, it is respectfully asserted that Anderson, like Ali, teach away from applicant's invention. If it was the intent of the Examiner to modify Ali by showing that a product being sold or otherwise dispensed to a consumer and which is identified by a display that associates characteristics of a single entity with a code for multiple package displays spaced apart from the segmented display is taught by Anderson to add to a deficiency of Ali, this simply has not been addressed. Specifically, even when it comes to Anderson, the products being offered (paint tubes) are displayed together with the color chart and, thus, the "spaced apart from" limitation remains a deficiency and the combination of references relied upon by the Examiner. For example, reference is made to column 12, lines 5-51 which reference various figures showing the dispensing of paint from tubes on racks. For example, Fig. 7 shows a lazy-Susan type device where the color chart or palette 12 is displayed on top surface 24. As to claim 8, palette 12 is placed upon base surface 44. As to the dispensing container of Fig. 9, "a lower surface portion 40 is provided which carries the artist's color wheels associated with each palette grouping associate with each family of coloring materials." As Anderson concludes, "any of these arrangements provides a very informative, convenient and expedient aide in preparing a palette of paint in any given total selection preparatory to rendering of a color work." Column 13, lines 3-6.

In summary, if anything, Anderson confirms the teachings of Ali in providing a dispenser whereby characteristics of the items being dispensed are made a part of the dispenser itself.

In addition to the above, it is quite clear from applicant's claims and supporting specification that the thrust of applicant's invention is to provide a system for displaying multiple packages for purchase by consumers. It is respectfully asserted that Anderson is nothing more than a group of paint tubes which an artist is likely to own or possess in a complete set using the associate color chart to tell the artist which colors to mix to get a certain tonal palette. By contrast, applicant intends to assist a consumer in purchasing multiple low cost items, such as pet supplies, which characteristics of those items perform which function in the ongoing care and well-being of the pet. Although the claims are not limited to pet supplies per se, one could not escape the commercial thrust of applicant's invention noting that claims 1-11 include the preamble, "a system of

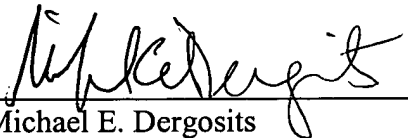
displaying multiple packages for purchase by consumers.” Further, applicant’s claims clearly call for a system that comprises “a segmented display that identifies characteristics of a single entity and codes each segment of said segmented display to differentiate each characteristic from other characteristics of these segmented display.” Anderson simply does not do this.

For the reasons advanced above, it is respectfully asserted that the present application is in condition for allowance and such disposition is earnestly solicited.

Respectfully submitted.

Respectfully submitted,
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